

THE SCHOOL ADMINISTRATOR

and Uniform Compliance Guidelines ISSUED BY STATE BOARD OF ACCOUNTS

Volume 154A

June 2001

NEW LAWS AFFECTING SCHOOL CORPORATIONS

The following is a digest of some of the laws passed by the 2001 Regular Session of the General Assembly affecting school corporations. Please note the effective dates. Some of the laws do not pertain directly to school corporations but are included in the digest for ready reference to the covered subject matter.

The digest is not intended as an expression of legal interpretation. Nor is the digest intended to be all inclusive. References in the digest will be to the Indiana Code in the following form (Amends IC 20-5-2-2) (Amends Indiana Code, Title 20, Article 5, Chapter 2, Section 2).

PUBLIC LAW 2 - HOUSE ENROLLED ACT 1229. EFFECTIVE APRIL 12, 2001. COPIES OF ENROLLED ACTS. Amends IC 2-6 concerning clerks of the circuit courts preferences for receiving copies of enrolled acts (hard copy or electronic).

PUBLIC LAW 7 - HOUSE ENROLLED ACT 1388. EFFECTIVE APRIL 12, 2001. LEWIS AND CLARK BICENTENNIAL. Creates the Lewis and Clark Bicentennial Commission. Provides the Commission shall coordinate local and nonprofit organizations bicentennial activities occurring in Indiana.

PUBLIC LAW 14 - HOUSE ENROLLED ACT 2041. EFFECTIVE JULY 1, 2001. UNDERGROUND STORAGE TANKS. Amends IC 13 to provide for numerous changes in the underground storage tanks provisions, including increased penalties.

PUBLIC LAW 18 - HOUSE ENROLLED ACT 1025. EFFECTIVE JULY 1, 2001. UNEMPLOYMENT COMPENSATION. Amends IC 22-4-11-4 to provide the Department of Workforce Development may adjust the contribution amount on the basis of information of failure to timely or accurately file payroll reports.

PUBLIC LAW 26 - HOUSE ENROLLED ACT 1424. EFFECTIVE JULY 1, 2001. INDIANA ECONOMIC DEVELOPMENT PARTNERSHIP FUND. Establishes the Indiana Economic Development Partnership Fund under IC 4-22-10 to provide grants to be used for the establishment of regional technology centers.

Also creates local advisory boards.

PUBLIC LAW 50 - SENATE ENROLLED ACT 137. EFFECTIVE JULY 1, 2001. CHILD CARE PROGRAMS. Amends IC 20-5-2-1.2 and IC 20-5-2-1.5 to require contracts for child care programs must be in writing. Also adds IC 20-5-2-1.7 to provide that before awarding a contract to operate a child care program operated by a not-for-profit or for-profit organization under IC 20-5-2-1.2 or IC 20-5-2-1.5 a school corporation must comply with the provisions of IC 5-22-9. The request for proposals must require each responding organization to specify the fee schedule the organization proposes to charge parents for the use of the child care program. An organization that operates a child care program must comply with the guidelines developed by the Department of Education and the school corporation for child care programs.

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PUBLIC LAW 55 - SENATE ENROLLED ACT 236. EFFECTIVE JULY 1, 2001. STORM WATER GRANTS. Adds to IC 13 concerning the State Budget Agency and grants pertaining to storm water management.

PUBLIC LAW 68 - SENATE ENROLLED ACT 454. EFFECTIVE JULY 1, 2001. SAVINGS PLANS, EXTRA-CURRICULAR ACTS, TECHNOLOGY FUND TRANSFERS. Amends IC 5-10-1.1-1(2) to add for a school corporation, the authority to establish an employee savings plan that is a defined contribution plan qualified under Section 401(a) or 403(b) of the Internal Revenue Code, and contribute amounts to the plan on behalf of eligible employees to be credited and allocated to an account for each employee.

Also Amends IC 5-11-10-1.6 (2) to include a School Extra-Curricular Account.

Amends IC 5-13-7-5 to provide a school corporation may determine if a board of finance meeting is needed on an annual basis.

Amends IC 9-18-31-7 to provide educational license plate fees funds received may only be used for purposes other than salaries and related fringe benefits.

Also amends IC 20-5-3-1 concerning personal liability for acts omissions unless gross negligence or an intentional disregard of the treasurer' s duties.

Amends IC 21-2-18-2 to provide the Technology Fund consists of money transferred under IC 21-2-11-6 or IC 21-2-11-6.5 and other monies as designated by the Department Of Education. Removes prior references to IC 20-5-62-6; IC 20-10.1-25-5; IC 20-10.1-25.3-16; IC 20-5-62-6(4)(B); IC 20-10.1-25; IC 20-10.1-25.3; IC 21-2-15-4(d).

Also amends IC 36-1-8-12 to remove school corporations from a requirement of State grant money being required to be recorded in a separate fund if local matches are required.

PUBLIC LAW 78 - HOUSE ENROLLED ACT 1075. EFFECTIVE JULY 1, 2001. FERTILIZER STORAGE. Amends IC 15-3-3-12.5 concerning political subdivision procedures regarding storage and utilization of fertilizer.

PUBLIC LAW 83 - HOUSE ENROLLED ACT 1199. EFFECTIVE JULY 1, 2001. VOLUNTARY WAGE ASSIGNMENTS. Amends IC 22-2-6-2 to provide wage assignments may be made for payment of a judgment owed by the employee if the payment is made in accordance with an agreement between employee and the creditors; and the judgment is not a garnishment under IC 34-25-3.

PUBLIC LAW 89 - HOUSE ENROLLED ACT 1503. EFFECTIVE JULY 1, 2001. ELECTRONIC MAPS. Amends IC 5-14-3-8 to provide a public agency may waive fees for maintaining, upgrading, and enhancing electronic maps under certain conditions.

PUBLIC LAW 100 - SENATE ENROLLED ACT 165. EFFECTIVE MAY 3, 2001. CHARTER SCHOOLS. Adds IC 20-5.5 to provide for charter schools under certain conditions and requirements.

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PUBLIC LAW 109 - SENATE ENROLLED ACT 273. EFFECTIVE JANUARY 1, 2002. VOLUNTARY REMEDIATION TAX CREDIT. Adds IC 6-3.1-23 to provide for voluntary remediation tax credits.

PUBLIC LAW 114 - SENATE ENROLLED ACT 509. EFFECTIVE JULY 1, 2001. PUBLIC RECORDS COMMISSION. Amends IC 5-15-5.1-18 to add the Public Access Counselor and the Executive Director of the Data Processing Oversight Commission to the Commission on Public Records.

PUBLIC LAW 122 - HOUSE ENROLLED ACT 1367. EFFECTIVE JULY 1, 2001. LIMITATIONS ON EMPLOYMENT OF CHILDREN. Amends and adds to IC 20-8.1 concerning applicability and the rest breaks for employment of children.

PUBLIC LAW 125 - HOUSE ENROLLED ACT 1504. EFFECTIVE JULY 1, 2001. TITLE 36 VOTES. Adds IC 36-1-8-14 to provide that whenever the title requires an action to be taken by three-fourths (3/4) vote, the number of votes necessary to satisfy the requirement is rounded to the nearest whole number.

PUBLIC LAW 148 - HOUSE ENROLLED ACT 1122. EFFECTIVE JULY 1, 2001. HEALTH INSURANCE. Adds IC 5-10-8-7.1 to provide for pervasive developmental disorder coverage.

PUBLIC LAW 184 - HOUSE ENROLLED ACT 1193. EFFECTIVE VARIOUS DATES. PERF. Adds IC 5-10-1.1-7.3 to provide any political subdivision that elects to use the State Employee Deferred Compensation Plan may also elect to participate in the State Defined Contribution Plan. The governing body of a political subdivision must authorize participation. Also provides various requirements for participation.

Also amends IC 5-10.3-7-5 concerning military service credit.

PUBLIC LAW 189 - HOUSE ENROLLED ACT 1222. EFFECTIVE JULY 1, 2001. TELEPHONE SOLICITATIONS. Adds IC 24-4.7 to require the Attorney General's Office to publish a list of telephone numbers not to be solicited by telephone and provides civil remedies.

PUBLIC LAW 192 - HOUSE ENROLLED ACT 1307. EFFECTIVE MAY 10, 2001. BOARD MEMBER LIABILITY. Amends IC 34-13 concerning limitation of liability for board members acting within the scope of their employment.

PUBLIC LAW 194 - HOUSE ENROLLED ACT 1395. EFFECTIVE JULY 1, 2001. PUBLIC PURCHASES. Adds IC 5-22-15-24.2 to provide if an offeror offers to furnish supplies made in a country other than the United States, the governing body may not award a contract to the offeror for the supplies if the supplies were made using forced labor. The governmental body shall inform offerors in the solicitation of the provisions of the section.

Also adds IC 5-22-15-25 to provide in subsection (c) that unless the head of the purchasing agency makes a written determination, a solicitation must require that if any steel products are used in the manufacture of supplies required under a contract or supplies used in the performance of the services under a contract by the contractor, a subcontractor of the contract, the steel products must be manufactured in the United States. IC 5-22-15-25(c) does not apply if the head of the purchasing agency determines in writing that (A) the cost of the contract with requirements of IC 5-22-15-25 (c) would be greater than one hundred fifteen percent (115%)

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of the costs of the contract without the requirements of subsection (c); and (B) failure to impose the requirements of subsection (c) would not in any way harm the business of a facility that manufactures steel products in Indiana; or result in the reduction of employment or wages and benefits of employees of those facilities; or the purchase is less than \$10,000 and made under the small purchase policies as described in IC 5-22-8-2 (b). The purchasing agency shall inform offerors in the solicitation of the provisions.

Also adds IC 5-22-17-14 to provide a contract awarded under the article must include the requirements of IC 5-22-15-25 (c) unless the head of the purchasing agency makes a determination under IC 5-22-15-25 (d).

Also adds IC 5-22-19-5 to provide an Indiana taxpayer has standing to challenge a determination under IC 5-22-15-25 (d); and enforce a contract provision required under IC 5-22-17-14 if the contract is related to steel products or supplies manufactured by steel products.

PUBLIC LAW 198 - HOUSE ENROLLED ACT 1499. EFFECTIVE VARIOUS DATES. STATE BOARD OF TAX COMMISSIONERS ABOLISHED. Amends and adds to various sections of IC 6-1.1 to provide for the abolishment of the State Board of Tax Commissioners and the creation of the Department of Local Government Finance and the Indiana Board of Tax Review. Also establishes the Department of Local Government Finance Division of Data Analysis to compile an electronic database including the local government database and information concerning assessed values and sales disclosure information.

Makes numerous changes to IC 6-1.1 concerning assessing procedures including IC 6-1.1-4-18.5 to provide that assessors may not use the services of a professional appraiser for assessment or reassessment purposes without a written contract. Also provides notice for receipt of bids for technical advisers.

PUBLIC LAW 209 - HOUSE ENROLLED ACT 1663. EFFECTIVE JULY 1, 2001. HIGH CALCIUM FOOD AND BEVERAGES. Adds IC 5-22-15-24 to provide the section is in addition to any requirements placed upon the governmental entity by the United States Department of Agriculture under the National School Lunch Program or the School Breakfast Program. The section applies to a governmental entity listed in section 1 of the chapter or a business that contracts with the government or entity listed in section 1 of the chapter that purchases food or beverages to be processed or served in a building or room owned or operated by the governmental entity. Section (c) is added to provide high calcium foods and beverages are preferred supplies. A purchasing agent shall give a preference to foods and beverages that contain a higher level calcium than products of the same type and quality; and are equal in price to or lower in price than products of the same type and quality.

Also adds a noncode section to provide notwithstanding IC 5-22-15-24 a purchasing agent who entered into a contract with a supplier before July 1, 2001 to purchase food and beverages is not required to purchase high calcium foods and beverages if purchasing those products would change the terms of the contract. The section expires July 1, 2003.

PUBLIC LAW 225 - HOUSE ENROLLED ACT 1901. EFFECTIVE JULY 1, 2001. MERCURY AND MERCURY PRODUCTS. Adds IC 13-20-17.5 concerning public schools not purchasing or using certain mercury products after July 1, 2003.

PUBLIC LAW 241 - SENATE ENROLLED ACT 33. EFFECTIVE JULY 1, 2001. THREATS OR INTIMIDATION OF SCHOOL EMPLOYEES. Adds IC 20-8.1-12.5 and amends IC 34-32-85.1 and IC 35-45-2-1 concerning the reporting of threats against school employees.

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PUBLIC LAW 246 - SENATE ENROLLED ACT 107. EFFECTIVE VARIOUS DATES. PERF, TRF. Amends various provisions in IC 5 and IC 36 concerning benefits for members.

Amends IC 5-10.2-3-2 to provide the total amount of contributions that may be made to a member's annuity savings account may not exceed ten percent (10%) for that payroll period. The contributions under the section may be picked up and paid by an employer.

Amends IC 5-10.2-4-7 to provide member's retirement benefits may be paid to a revocable trust.

Also amends IC 5-10.2-4-8 concerning earnings limitations.

PUBLIC LAW 250 - SENATE ENROLLED ACT 141. EFFECTIVE MAY 11, 2001. EXTREME SPORT AREA. Amends and adds to IC 34-6 and IC 34-13 to define extreme sport areas and the extent of governmental liability therein.

PUBLIC LAW 251 - SENATE ENROLLED ACT 176. EFFECTIVE JULY 1, 2001. LOCAL RAINY DAY FUND. Adds IC 36-1-8-5.1 to provide a political subdivision may establish a rainy day fund to receive transfers of unused and unencumbered funds under IC 36-1-8-5(b) which provides that whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise: . . . as provided in section 5.1. The rainy day fund is subject to the same appropriation process as other funds that receive tax money. Before making an appropriation from the rainy day fund, the fiscal body shall make a finding that the proposed use of the rainy day fund is consistent with the intent of the fund. In any fiscal year, a political subdivision may transfer not more than ten percent (10 %) of the political subdivision's total budget for the fiscal year to the rainy day fund. The State Board of Tax Commissioners may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

Fund Number 61 has been added to the Chart of Accounts for the Rainy Day Fund.

PUBLIC LAW 253 - SENATE ENROLLED ACT 199. EFFECTIVE JULY 1, 2001. RETIREMENT OR SEVERANCE LIABILITY. Adds IC 20-5-4-1.7 to provide a school corporation may issue bonds to implement solutions to contractual retirement or severance liability subject to the following: (1) A school corporation may issue bonds for that purpose only one (1) time. (2) The solution to which the bonds are contributing must be reasonably expected to reduce the school corporation's existing unfunded contractual liability for retirement or severance payments, as of June 30, 2001. (3) The amount of the bonds that may be issued for the purpose described may not exceed two percent (2%) of the total assessed valuation of property in the school corporation. (4) Each year that a debt service levy is needed under this section, the school corporation shall reduce its total property tax levy for transportation, capital projects, or art association and historical society funds in an amount equal to the property tax levy needed for the debt service. The property tax rate for each of these funds shall be reduced each year until bonds are retired. Bonds issued for the purpose described shall be issued in the same manner as other bonds of the school corporation and must be issued before December 31, 2003 and are not subject to the petition remonstrance process under IC 6-1.1-20.

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Adds IC 20-5-64 to provide a school corporation that: (1) after June 30, 2001, establishes a retirement or severance plan that will require the school corporation to pay post-retirement or severance benefits to employees of the school corporation; or (2) includes in a collective bargaining agreement or other contract entered into after June 30, 2001, any provisions to increase: (A) the benefit; or (B) the unfunded liability; under any retirement or severance provisions that will require the school corporation to pay post-retirement severance benefit to employee of the school corporation.

Also adds IC 20-5-64-2(a) to provide a school corporation must fund on an actuarially sound basis the post-retirement or severance benefits that will be paid to employees under a plan, an agreement, or a contract described in section 1(1) of this chapter or an increase described in section 1(2) of this chapter. (b) A school corporation must place the assets used to fund on an actuarially sound basis the post-retirement or severance benefits in a separate fund or account, and the school corporation may not commingle the assets in the separate fund or account with any other asset of the school corporation. Retirement/Severance Bond Fund, Fund Number 62 and Post-Retirement/Severance Future Benefits Fund, Fund Number 63 have been added to the Chart of Accounts.

Repeals IC 20-5-4-1.7 effective December 31, 2003. Bonds issued under IC 20-5-4-1.7 before December 31, 2003 remain valid and binding obligations of the school corporation as if IC 20-5-4-1.7 not been repealed. Each year that a debt service levy is needed for the bonds, the school corporation shall reduce the total property tax levy for other funds in an amount equal to the levy needed for the debt service on the bonds.

PUBLIC LAW 254 - SENATE ENROLLED ACT 204. EFFECTIVE JULY 1, 2001. RECORD DISCLOSURE. Adds IC 20-10 01-22.4-3 to provide for certain disclosures to juvenile justice agencies of education records.

PUBLIC LAW 272 - SENATE ENROLLED ACT 445. EFFECTIVE MAY 11, 2001. CRIMINAL HISTORY CHECKS. Amends IC 5-2 and IC 20-5 concerning criminal history checks including individuals employed by an entity that seeks to enter into a contract to provide services to a school corporation.

PUBLIC LAW 278 - SENATE ENROLLED ACT 501. EFFECTIVE JULY 1, 2001. SCHOOL BUSES. Amends IC 20-9.1-5-3.5 (c) The governing body of a school corporation may permit, by written authorization, the use of school buses owned by the school corporation for the transportation needs of a fair or festival operated by or affiliated with a non-profit organization exempt from federal taxation under Section 501(c)(3) through 501(c)(7) of the Internal Revenue Code.

Also amends and adds to IC 20-9.1-4-5 concerning special purpose bus inspections.

PUBLIC LAW 281 - SENATE ENROLLED ACT 524. EFFECTIVE JULY 1, 2001. 1937 FIRE PENSION FUND. Amends IC 5-13 to provide for potential interest earnings from the Public Deposit Insurance Fund to be distributed under certain circumstances for fire pension obligations.

PUBLIC LAW 286 - HOUSE ENROLLED ACT 1925. EFFECTIVE JULY 1, 2001. HEALTH INSURANCE. Amends IC 5-10-8-2.2 and IC 5-10-8-2.6 to provide a local unit employer may provide programs of group health insurance by electing to participate in the local unit group of local units that offered the state employee health plan under IC 5-10-8-6.6. A local unit public employer may provide programs of group insurance other than group health insurance by purchasing policies of group insurance and by establishing self-insurance programs.

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Adds IC 5-10-8-6.6 to provide the State Personnel Department shall allow a local unit to participate in the local unit group by electing to provide coverage of health care services for active and retired elected or appointed officers and officials; full-time employees; part-time employees; of the local unit under a state employee health plan under certain conditions.

Amends IC 20-5-2-2 to provide for participation in a State employee plan under IC 5-10-8-6.6.

Also amends IC 20-7.5-1-4 concerning collective bargaining for accident, sickness, health, dental, or other benefits.

PUBLIC LAW 289 - HOUSE ENROLLED ACT 2130. EFFECTIVE JULY 1, 2001. ENTERPRISE ZONE. Amends and adds to several provisions within IC 4-4 concerning enterprise zones.

PUBLIC LAW 291 - HOUSE ENROLLED ACT 1001. EFFECTIVE VARIOUS DATES. STATE BUDGET. Amends IC 5-11-4-3 to provide each taxing unit shall be charged at the rate of forty-five dollars (\$45) per day for examination of accounts.

Also provides for adjusted contribution rates by the Teachers' Retirement Fund Board.

Also adds funding for full day kindergarten. Provides a school corporation provided a grant must provide the Department of Education a financial report stating how the funds were spent and returning unspent funds at the end of the biennium. Please use Receipt Account 3221, Full Day Kindergarten Grant, and Expenditure Account 11050, Full Day Kindergarten.